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S4 11 Cr. 1091 (VM)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- against -

PETER LESNIEWSKI,

Defendant.

ORDER

VICTOR MARRERO, United States District Judge.

Defendant Peter Lesniewski ("Lesniewski") filed a motion and supporting declaration and memorandum to recuse the Court pursuant to 28 U.S.C. § 455(a). (See. Dkt. Nos. 414, 415 & 416.) The Government subsequently filed a memorandum in opposition. (See Dkt. No. 417.)

Lesniewski's counsel previewed this motion during a June 7, 2013 pretrial conference, arguing that portions of the Court's statement in conjunction with the sentencing of co-defendant Peter Ajemian ("Ajemian") following his guilty plea (see Dkt. No. 399) required its recusal from the remaining proceedings concerning Lesniewski in this matter (see Hr'g Tr. at 9:9-14:5). In response, the Court noted that the statement in question referred only to Ajemian, and that counsel's argument assumed that the Court would prejudge trial and potentially sentencing issues as the circumstances pertained individually to Lesniewski. (See id. at 9:24-10:9.) Further, the Court stated that it would be inclined to deny any formal motion on this subject. (See id. at 14:10-11.)

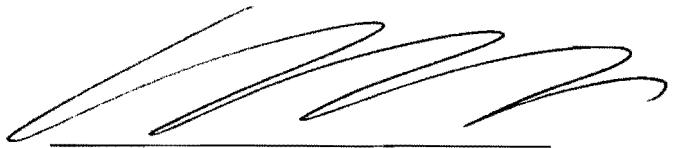
The Court's review of the instant motion and supporting papers, as well as the Government's response opposing the motion, uncovered nothing to dissuade it from

reaffirming its preliminary ruling. The Court's statements to which Lesniewski objects do not constitute a situation in which the Court's "impartiality might reasonably be questioned" under 28 U.S.C. § 455(a); in other words, "an objective, disinterested observer fully informed of the underlying facts" would not "entertain significant doubt that justice would be done absent recusal[.]" United States v. Lovaglia, 954 F.2d 811, 815 (2d Cir. 1992) (affirming denial of recusal motion where judge previously had social relationship with alleged victim of defendant's criminal activity). Accordingly, it is hereby

ORDERED that the motion of defendant Peter Lesniewski ("Lesniewski") to recuse the Court from remaining proceedings in this matter as they relate to Lesniewski is DENIED.

SO ORDERED:

Dated: New York, New York
24 June 2013



Victor Marrero
U.S.D.J.